
OLR Bill Analysis

SB 813

AN ACT ESTABLISHING A TAX CREDIT FOR THE PURCHASE OF LONG-TERM CARE INSURANCE.

SUMMARY:

This bill creates a \$500 credit, apparently against the personal income tax, for premiums paid by a state resident for long-term care policies who is insured under these policies during the taxable year. The credit does not apply to a nonresident who is subject to the tax, which may raise constitutional issues (see BACKGROUND). The credit is the same, regardless of the amount of premiums paid.

The bill allows one long-term care policy to be eligible for the credit for residents who file as an unmarried individual, a married individual filing separately, or a head of household under the federal income tax. For residents who file as married individuals filing jointly, no more than two policies are eligible for the credit. The credit may only be used to reduce the resident's tax liability for the year in which the credit is applied and may not reduce the tax liability to less than zero.

The credit does not affect payroll tax withholding or estimated income tax payments.

EFFECTIVE DATE: July 1, 2013, and applicable to taxable years beginning on or after January 1, 2013.

BACKGROUND

Differential Treatment of Non-residents

In *Lunding v. New York Tax Appeals Tribunal*, 522 U.S. 287 (1998), the U.S. Supreme Court ruled that a New York tax law that effectively only allowed resident taxpayers an income tax deduction for alimony the taxpayer paid violated the Privileges and Immunities Clause of the U.S. Constitution. This clause (U.S. Const. Art. IV) provides that "the Citizens of each State shall be entitled to all Privileges and Immunities of citizens in the several States." The Court held that the clause bars discrimination against citizens of other states where there is no substantial reason for discrimination beyond the mere fact that they are citizens of other states. However, the clause does not preclude

disparity of treatment in situations where there are valid independent reasons for it. The test of the constitutionality of a credit that only applies to in-state residents is whether the right to the credit is reasonably limited to residents and whether there was intentional discrimination against non-resident taxpayers.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 19 Nay 0 (02/14/2013)